

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

**GERALD GRADIA, as Personal Representative
of the Estate of Jay Gradia, deceased,**

Plaintiff(s),

vs.

CIVIL NO. 02-286 WDS/LFG

ERIC TANNER and KLLM Incorporated,

Defendant(s).

MEMORANDUM OPINION AND ORDER

This matter comes before the Court on Defendants' Motion in Limine to Exclude Evidence Regarding Autopsy Photos, Postmortem Photos and Autopsy Report (Doc. 55).

Defendant argues that it is undisputed that Plaintiff's decedent, Jay Gradia, was killed in the accident at issue, therefore, the photos serve no purpose other than to inflame the jury and prejudice the Defendants. Plaintiff argues that the circumstances of Gradia's death is at issue, in particular where he was and what he was doing. Since Defendants are claiming comparative negligence on the part of Plaintiff's decedent, the location of the injuries may be relevant in determining where Gradia was and what his position was in relation to the impact.

Accordingly, the motion will be denied at this time. The Court will review specific photos and specific portions of the autopsy report sought to be introduced to determine if they are relevant to a specific issue in the case.



W. DANIEL SCHNEIDER
United States Magistrate Judge

